

Hearing Date: September 14, 2022
Hearing Time: 2:00 p.m.

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

CELSIUS NETWORK LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 22-10964 (MG)

Jointly Administered

**PARTIAL JOINDER AND RESPONSE OF CERTAIN CELSIUS
BORROWERS TO THE OBJECTION OF IMMANUEL HERMAN,
PRO SE, TO THE PROPOSED DRAFT ORDER DIRECTING
THE APPOINTMENT OF AN EXAMINER (DOC. NO. #779)**

Zaryn Dentzel, Gregory Kieser, Joseph Eduardo and Michael Conlan (collectively, the “Borrowers”)², by and through their counsel, McCarter & English, LLP, hereby file this partial joinder and response to the *Objection of Immanuel Herman to the Proposed Draft Order Directing the Appointment of An Examiner* (Doc. No. 779) (the “Objection”)³ and respectfully state as follows:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Celsius Network LLC (2148); Celsius KeyFi LLC (4414); Celsius Lending LLC (8417); Celsius Mining LLC (1387); Celsius Network Inc. (1219); Celsius Network Limited (8554); Celsius Networks Lending LLC (3390); and Celsius US Holding LLC (7956). The location of Debtor Celsius Network LLC’s principal place of business is 121 River Street, PH05, Hoboken, New Jersey 07030.

² The Borrowers consist of persons who deposited their cryptocurrency as collateral against loans provided by Celsius Lending, LLC. The Borrowers are in the process of forming an *ad hoc* committee, and anticipate filing a Rule 2019 Statement shortly.

³ All capitalized terms used but not otherwise defined herein shall have the same meaning ascribed to them as in the Examiner Motion.

PARTIAL JOINDER

The Borrowers join in the arguments set forth in the Objection that request the appointment of a chapter 11 Trustee or a Chief Restructuring Officer. As noted in the Objection,

[a]n examiner can only examine, which is a problem. . . . a Trustee, who is a Chief Restructuring Officer . . . can speak out instead of shrinking away, help quell customer distrust, and get us on the road to collaboration and recovery.

Objection at 5.

The Borrowers also join in the request in the Objection that, if there is to be an examiner, the scope of the examination should include the following additional items:

- An examination into whether the Tether loan is subject to avoidance under Chapter 5 of the Bankruptcy Code either as a preference or a fraudulent transfer
- An examination of whether the \$750 million intercompany revolver moved depositor money to non-debtor entities, or other entities that would shift recovery from depositors to preferred shareholders.⁴

On a more fundamental level, creditors of the Debtors want to know what happened to their missing crypto. The coin report that was filed with the Court reflected that as of July 29, 2022 (the “July 29th Coin Report”), the Debtors had \$6.673 billion in crypto liabilities (*i.e.* deposits by Celsius customers) and only \$3.828 billion in crypto assets. Stated differently, the Debtors were “short” \$2.845 billion in crypto as of July 29, 2022. *See* Doc. No. 447 at p. 6. The Borrowers respectfully request that the examiner investigate where, when and how the Debtors dissipated the \$2.845 billion in crypto reflected on the July 29th Coin Report.

⁴ Given the prior engagement of White & Case by Westcap, the Borrowers believe that this part of the investigation must be done by an examiner. *See* ¶13 of the Declaration of White & Case in connection with Application For Entry Of An Order Authorizing The Employment And Retention Of White & Case LLP As Counsel Effective As Of July 29, 2022 (Doc. No. 603)(“ In May 2021, White & Case was engaged by Westcap . . . to represent it in connection with its preferred equity investment in Celsius Network Limited (the “Westcap Matter”). White & Case’s representation of Westcap in connection with the Westcap Matter involved reviewing *due diligence information*, including bitcoin mining licenses, and regulatory compliance matters related to Westcap’s potential investment in Celsius Network Limited.”) (emphasis supplied).

WHEREFORE, the Borrowers respectfully requests that the Court enter an appropriate order resolving the Examiner Motion to include the items above.

Dated: New York, New York
September 13, 2022

McCARTER & ENGLISH, LLP

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